

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

v.

MARK GREGG,

Defendant.

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8:06CR313

ORDER

This matter is before the court on the United States' (hereinafter, "the government's") motion to strike, Filing No. [54](#). The defendant was convicted of aggravated identity theft and mail fraud in October of 2007. Filing No. [32](#). The government moves for an order striking the defendant's "Notice to Defendant Debtor on How to Claim Exemptions." Filing No. [53](#). In that pleading, the defendant purports to claim exemptions and also requests a hearing. *Id.*

The defendant was ordered to pay restitution in the amount of \$45,750.98 to the victim, E-Trade. Filing No. [32](#). The government certified that copies of the Application for Writ of Continuing Garnishment, Writ of Continuing Garnishment, along with the initial Clerk's Notice to Judgment Debtor, were sent to the judgment debtor at his last known address by first-class mail on August 11, 2009. Filing No. [43](#). On September 23, 2009, the government filed a Motion for Order of Garnishment requesting that the court order funds held in the defendant's E*Trade account to be paid into court. Filing No. [44](#). The court entered a Garnishee Order. Filing No. [45](#). The government states that on October 8, 2009, the amount of \$1,224.60 was paid to the Clerk of the District Court and applied to the defendant's criminal debt. See Filing No. [54](#).

The time for objecting to the garnishment, claiming exemptions, or requesting a hearing has long since passed. See [28 U.S.C. § 3202\(d\)](#). The court's garnishment order dated September 23, 2009, is a final order, the time for appeal has passed, and the order is not subject to reconsideration or further judicial review. Accordingly, the court finds the defendant's pleading should be stricken and his request for a hearing should be denied.

IT IS ORDERED:

1. The government's motion to strike (Filing No. [54](#)) is granted.
2. The defendant's pleading entitled "Notice to Defendant Debtor on How to Claim Exemptions" (Filing No. [53](#)) is stricken.
3. The Clerk of Court is directed to mail a copy of this order by first class mail to the defendant at 2122 South 7th Street, Council Bluffs, IA 51501-7336

DATED this 26th day of October, 2011.

BY THE COURT:

s/Joseph F. Bataillon
Chief District Judge

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